

Notes – Meeting with DNR and EPA
8/9/16

What do we see as the primary impediments to getting tank site cleanups completed in a timely manner?

- I. Lack of understanding/acceptance of the distinct roles and responsibilities of DNR, PSTIF, owners, and consultants.
- II. Lack of communication and/or poor communication by the DNR Tanks Section.
- III. Lack of technical competence in the DNR Tanks Section.
- IV. Lack of leadership to set goals and hold DNR staff accountable.
- V. Lack of thoughtful and timely follow-up by DNR to compel action when there is a legally-responsible party.
- VI. Lack of desire by the DNR to close files and lack of incentive to do so.

I. Lack of understanding/acceptance of the distinct roles and responsibilities of DNR, PSTIF, owners, and consultants.

- A. What standards must be met – DNR. By law, must be risk-based. DNR responsible for reviewing results to make sure standards are met and compelling action if it is not being taken in a timely manner.
- B. How to meet them – owner and consultant. Owner is responsible party. Consultant is project manager.
- C. Whether and how much to pay – PSTIF
- D. See 10 CSR 100-5.010(8)-(9).
- E. PSTIF is responsible for owner's civil liability to third parties. DNR is not.
- F. Other parties have rights and reasons to collect information and authority to collect data or conduct activities on their properties.

II. Lack of communication and/or poor communication by the DNR Tanks Section.

- A. DNR's Tanks Section Chief, Program Director, and Deputy Division Director have been repeatedly invited to contact us any time they or their staff believe PSTIF staff were impeding progress; have not done so.
- B. Many letters issued by Tanks Section fail to clearly state whether the DNR agrees or disagrees with consultant's conclusions, or what standard the consultant has not met.
- C. DNR staff rarely visit sites, rarely initiate dialogue with PSTIF adjusters, and often do not include PSTIF in their dialogue with owners/consultants.

III. Lack of technical competence in Tanks Section

- A. Do not understand fundamental concepts of risk-based decision-making, fate and transport physics. Not familiar with research on fate and transport of petroleum hydrocarbons in environment.
- B. Do not have educational background appropriate for evaluating conclusions reached by professional engineers and geologists.
- C. Linear, rather than global, approach. Too much "piecemeal."
- D. Neither empowered nor encouraged to make professional judgments.
- E. Require actions beyond what is required by law and rules.
- F. Conclusions reached and agreed to on one site are not acknowledged while reviewing reports for nearby property in same geological setting.
- G. In earlier years of program, LUST Unit made decisions based on technical data and known science. Now, DNR assumes "guilty until proven innocent." I.e., Prove it's *not* impacted. Prove it's *not* a risk.
- H. Conclusions reached and agreed to years ago on a file are questioned or reversed by current staff. Or prior reports are not reviewed; instead, ask taxpayers to pay for producing the information again.
- I. Different expectations and requirements imposed when PSTIF is paying than when private party is paying.

IV. Lack of leadership to set goals and hold DNR staff accountable.

A. PSTIF initiated multiple efforts over the last 8 years to "decrease the backlog:"

- i. "Triad" approach to site characterization
- ii. "Expedited files"
- iii. Monthly DNR/PSTIF Coordination meetings (Clms Mgr and Tks Sec Chief)
- iv. Bimonthly coordination meetings w/ DNR prog dir & deputy division director
- v. Lunch meeting with DNR to clarify roles
- vi. Backlog Plan
- vii. Training for consultants
- viii. Visits to consulting firms that do large # of tank sites
- ix. Identify and code "abandoned" files
- x. Identify and monitor "low hanging fruit" files
- xi. Identified and invited DNR and consultants to confer on how to close the "List of 27" (very old remedial claims at operating tank sites where there is little/no risk).
- xii. Invited DNR to collaborate on "how to" bulletin for free product recovery "to extent practicable"
- xiii. Asked DNR to collaborate on engaging outside expert to resolve "plume stability" problems
- xiv. Repeatedly urged DNR to increase site visits
- xv. Initiated efforts to improve communications with consultant, PSTIF adjuster and DNR Tanks Section file manager
- xvi. Asked DNR to implement a "dispute resolution" process

What efforts or proposals has DNR initiated with PSTIF?

B. No "response time" expectations.

C. Attitude problems, lack of professionalism, and inconsistent treatment of property owners.

V. Lack of thoughtful and timely follow-up by DNR to compel cleanups when there is a legally-responsible party.

A. No expectations or goals; no accountability for results

B. No prioritization of compliance/enforcement actions

C. No accountability for compliance/enforcement

VI. Lack of desire by the DNR to close files. Multiple disincentives for doing so.